

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

HEATHER LEVY et al.)	
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)	
Plaintiffs,)	
)	
v.)	
)	Civil Action No. 8:15-cv-01611
AUSLANDER CORPORATION et al.)	
)	
Defendants.)	
)	
)	

**PLAINTIFFS’ RESPONSE TO ORDER TO SHOW CAUSE
AND MOTION TO WITHDRAW AND DISMISS THIS ACTION**

Plaintiffs, Heather Levy and Yuyah Levy-Hector (collectively “Plaintiffs”), by counsel, hereby reply to this court’s order to show cause and move this court to for leave to withdraw and dismiss this action. Plaintiff has just learned from counsel to the estate of the decedent that at last they have filed a Maryland state court action and with this court’s permission, Plaintiff will file in the Maryland court and seek appropriate joinder of these actions.

As this court had been advised, Plaintiff was aware that the Hector family had counsel but no action had ever been taken until, as Plaintiff learned days ago during the response period for this Order to Show Cause, that an action had at last been filed. It is respectfully submitted that is both wise and fair to allow the state court, which will have familiarity and determination of key facts and the dispositive understanding of the underlying state law, resolve all matters in dispute between plaintiff and defendants. Plaintiff concedes the apparent logic of some of Defendants’ counsel’s arguments and its Complaint in state court will both show that changed

position and allow Plaintiff to conform its claims and action to the recently filed estate action and in that forum respond to the Defendant's challenges. In an email just over a week ago on November 9, 2015, plaintiff's counsel was advised by counsel to the Hector estate that a case had finally been filed in Circuit Court for Baltimore County, Maryland (Case No. 03-C-15-01129MT). A copy as provided to Plaintiff is appended hereto as Exhibit A. Plaintiffs are preparing a state court Complaint and an appropriate motion for joinder/consolidation and there will be no delay or prejudice to Defendants. Granting Plaintiffs' Motion for Leave to dismiss so it may remove and consolidate its claims with the just filed state action involving identical facts and law will be both judicially efficient and ensure consistent legal rulings and factual findings. Finally, in conceding this point, Plaintiff advises and affirms to this court that it was chosen by Plaintiffs because of a federal court's unique ability to effectively solve multi-state tort problems like this one and the life and safety issues presented by overtired truck drivers. That said, this matter is now before a Maryland state court, and your Plaintiff respectfully seeks leave to dismiss this action without prejudice and address all matters in that forum.

November 21, 2015.

Respectfully Submitted,

/s/ James A. Powers
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Upon consideration of Plaintiffs' Motion for Leave to Dismiss its Complaint, and upon Plaintiff's showing of the recent filing of a state court which Plaintiff seeks to join, and based upon the pleadings it is this _____ day of November 2015, hereby

United States District Court for the District of Maryland